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### Remarks

The specification has been amended, pursuant to the Examiner's request, to delete the reference to Figures 1 and 2, to accord with previous removal of Figures 1 and 2 from the specification.

Claims 21-22 and 27-28, and 31-32 remain in the application. Claims 1-20 were previously canceled; claims 23-26, 29-30, and 33-34 are canceled herein.

### Objection to the Specification

The Examiner objected to the reference to Figures 1 and 2 on pages 74 and 81 respectively of the specification, since Figures 1 and 2 were removed in a previous action. Applicants have amended the specification accordingly to remove reference to these Figures.

### Rejection of Claims 21-34 Under 35 U.S.C. 101

The Examiner rejected the claims allegedly for containing non-statutory subject matter in contravention of 35 USC Section 101. Applicants have amended the claims pursuant to the Examiner's suggestion by introducing the term "isolated" to distinguish the claimed subject matter over naturally occurring products.

### Rejection of Claims 29-30 Under 35 U.S.C. Section 112, First Paragraph

Claims 29-30 were rejected under 35 U.S.C. Section 112, first paragraph, allegedly as lacking both written description and enablement.

Without conceding the basis for this rejection, and solely in the interest of expediting allowance, Applicants have canceled claims 29-30 while reserving the right to later claim this subject matter and/or to assert the patentability thereof.

### Rejection of Claims 23-28 and 31-34 Under 35 U.S.C. Section 102

Claims 23-28 and 31-34 were rejected under 35 U.S.C. 102(a) allegedly as being anticipated by Masiakowski et al, WO 99/07738 (hereinafter "Masiakowski"); Pitti et al, Nature, 396, 699 (hereinafter "Pitti"); Emery et al US Patent 5,885,800 (hereinafter "Emery I"); Gentz et al, WO 98/30694 (hereinafter "Gentz"); or Emery et al, EP 0 861 850 (hereinafter "Emery II").

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The references cited allegedly "disclose a polypeptide comprising 300 amino acids, which is identical to the polypeptide of SEQ ID NO:3 and identical to SEQ ID NO:1 of the instant invention over the 271 amino acids of SEQ ID NO:1..." Further, according to the rejection, "Although each of these references did not appreciate that the full length polypeptide of SEQ ID NO:1 or 3 undergoes proteolysis... to produce at least two major peptide fragments (amino acids 1-218 and 219-271 for SEQ ID NO:1...), the claims as written read on the larger polypeptide... disclosed in each of these references."

Applicants have canceled claims 23-26 and 33-34 without conceding the basis for the rejection and while preserving the right to later claim this subject matter. As such the rejection is moot as to these claims. Applicants address the rejection in what follows as to remaining claims 27-28 and 31-32.

Applicants' invention relates to peptide and nucleic acid analogs of FLINT comprising fragments of full length FLINT and/or sequence analogs of such fragments that retain biological activity. Applicants discovered that native FLINT is proteolytically cleaved *in vivo* between positions 218 and 219 of SEQ ID NO:1 (comparably, between positions 247 and 248 of SEQ ID NO:3). The cited references disclose full length FLINT but do not disclose or suggest proteolysis, or identify the specific fragments claimed by Applicants. Applicants' claimed invention distinguishes over native FLINT, both in structure and function. Thus, while Applicants' claimed analogs retain the ability to bind LIGHT with about the same efficiency as FLINT, they bind FasL to a lesser extent. Thus, Applicants' claims distinguish over the cited art in structure and function.

The Examiner states that while Claims 27-28 and 33-34 "recite a specific activity... [they] are also rejected because the claims as written do not have the limitation that the analog is isolated or purified..." Applicants have amended claims 27-28 to specify that the claimed analog is "isolated." Applicants request withdrawal of the rejection.

Claims 23-28 and 31-34 were further rejected under 35 U.S.C. 102(e), allegedly as being anticipated by published US Application 2002/0150583 (hereinafter "'583 application").

According to the rejection, the '583 application discloses a 300 amino acid polypeptide that is "identical to the polypeptide of SEQ ID NO:1... over the 271 amino

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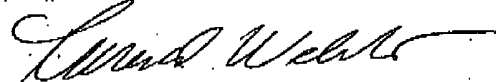
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acids of SEQ ID NO:1." Moreover, the rejection asserts "the claims as written read on the larger polypeptide . . . disclosed in the reference."

Applicants assert the same comments and arguments made in the preceding paragraphs respecting the rejection under 35 U.S.C. 102(a). Accordingly, Applicants respectfully request withdrawal of this basis of the rejection.

Applicants submit the amendments and arguments submitted herewith successfully address each point of the rejection. Applicants respectfully request withdrawal of the rejection and passage of the case to issuance.

Respectfully submitted,



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